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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,441	07/10/2006	Raymond Leonard Butler	1223-009	3177
1009 7590 02/25/2008 KING & SCHICKLI, PLLC 247 NORTH BROADWAY LEXINGTON, KY 40507				
EXAMINER				
NGUYEN, DINH Q				
ART UNIT		PAPER NUMBER		
3752				
MAIL DATE		DELIVERY MODE		
02/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/550,441

**Applicant(s)**

BUTLER ET AL.

**Examiner**

Dinh Q. Nguyen

**Art Unit**

3752

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-41 and 43-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-41 and 43-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/08)  
Paper No(s)/Mail Date 9/26/07
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. Claims 36-53 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "at least one hollow radial arm", "an angle", does not reasonably provide enablement for "at least one first type of hollow radial arm", "a first angle", "a second type of hollow radial arm", "a second angle", "to drench distal parts of the structure". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. Applicant amended the claims in an attempt to overcome the rejections of the Office Action dated June 28, 2007, the amendment dated November 28, 2007 amended claims 36-41, 43-46 and added new claims 47-53, the amendment introducing new matter as noted above, Applicant failed to show the relationship between the specification and the newly added limitations, Application also failed to show the support of the specification toward the newly added claims 47-53.
2. For the purpose of this Office action, the claims will be examined as best understood by the examiner.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 36-41, 43-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henderson in view of Griffith as best understood by the examiner.

Henderson teaches all the limitations of the claims except for an extension operatively connected to and disposed at an outer end of and in fluid communication with the at least one first type of hollow radial arm, and a nozzle in the extension. However, Griffith discloses a rotating sprinkler head having a base 1/8/9, a hub 13, at least one first type of hollow radial arm 15, an extension 15a disposed at an outer end with a first angle (see figure 1) and a second angle (see figure 4), and a nozzle 24 located within the extension 15a. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Henderson with an extension operatively connected to and disposed at an outer end of and in fluid communication with the at least one first type of hollow radial arm, and a nozzle in the extension as suggested by Griffith. Doing so would provide an effective sprinkler with board spraying range (see Griffith column 1, lines 21+).

With respect to claims 52 and 53, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to provide the device of Henderson in view of Griffith with one or more apertures for discharging fluid toward the base or the aperture disposed on an underside of the extension.

#### ***Response to Arguments***

5. Applicant's arguments filed November 28, 2007 have been fully considered but they are not persuasive. The amendment dated November 28, 2007 amended claims

36-41, 43-53 and added new claims 47-53, the amendment introducing new matter as noted above. The Examiner rejecting the claims in view of the new matter as best understood.

6. Applicant's arguments with respect to claims 36-41, 43-53 have been considered but are moot in view of the new ground(s) of rejection and as best understood by the Examiner in view of the new matter as indicated above.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dinh Q Nguyen/  
Primary Examiner, Art Unit 3752

dqn